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10 **UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

12 IN RE OPTICAL DISK DRIVE
13 PRODUCTS ANTITRUST LITIGATION

Case No. 10-MD-02143-RS
MDL No. 2143

14
15 This document relates to: ALL INDIRECT
PURCHASER ACTIONS

**DECLARATION OF ROBERT CLORE
IN SUPPORT OF OBJECTOR CONNER
ERWIN'S MOTION FOR ATTORNEYS'
FEES AND INCENTIVE AWARD**

1 I, Robert W. Clore, declare as follows:

2 1. I have personal knowledge of the facts set forth herein and, if called as a witness, could
3 and would testify competently thereto.

4 2. I am a Partner for the Bandas Law Firm, P.C., which maintains its principal place of
5 business in Corpus Christi, Texas. I am an attorney licensed to practice law in Texas since 1999. I
6 became a non-equity Partner at the Bandas Law Firm on June 1, 2021.

7 3. Timothy Hanigan, Christopher Bandas, Jason Pepe and I represent objecting class
8 member Conner Erwin. Mr. Hanigan is admitted in the Northern District of California and Mr.
9 Bandas and I are admitted to the Ninth Circuit and were admitted *pro hac vice* by this Court on July
10 19, 2019. Mr. Pepe is admitted in the Ninth Circuit and assisted in the handling of Mr. Erwin's most
11 recent appeal.
12

13
14 **Counsel's Skill, Efficiency, and Lodestar**

15 4. I am an experienced attorney in civil appeals and class actions, having graduated *magna cum*
16 *laude* from St. Mary's University School of Law. I served as Articles Editor with the St. Mary's Law
17 Journal, held membership in Phi Delta Phi, and clerked two years at the Thirteenth Court of
18 Appeals for the State of Texas before entering private practice. I served as appellate counsel for
19 several highly respected defense firms in Texas before becoming Senior Appellate Counsel for the
20 Bandas Law Firm, P.C., a well-respected personal injury plaintiff's firm, in early 2016. I am a
21 member of the Appellate Section of the State Bar of Texas and the Corpus Christi Bar Association
22 and am admitted to practice and in good standing with the United States Courts of Appeals for the
23 Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and Eleventh Circuits as well as
24 the United States Supreme Court.
25

26 5. Since joining Bandas Law Firm in 2016, I have authored numerous appellate briefs,
27 analyzed many class-action settlements, and appeared in federal district courts and appellate courts
28

1 in cases around the Nation to fight unfair settlements and excessive fee requests. I have had
 2 repeated successes for the benefit of class members. In addition to my successes before the Ninth
 3 Circuit here, I have assisted in securing many victories on behalf of clients in both personal injury
 4 and class action matters. See e.g., *In re Optical Disk Drive Prods. Antitrust Litig.*, No. 21-16291, 2022 U.S.
 5 App. LEXIS 15571, at *7 (9th Cir. 2022) (vacating for the Court to recalculate fees using \$22.2
 6 million, not \$25.8 million, as the starting point); *In re Optical Disk Drive Prod. Antitrust Litig.*, 959 F.3d
 7 922 (9th Cir. 2020) and *In re Optical Disk Drive Prod. Antitrust Litig.*, 804 Fed.Appx. 443 (9th Cir.
 8 2020) (prevailing in appeal with vacatur of \$52.8 million fee and expense award); *In re Lumber*
 9 *Liquidators Chinese-Manufactured Flooring Prod. Mktg., Sales Practices & Prod. Liab. Litig.*, 952 F.3d 471,
 10 489 (4th Cir. 2020) (winning an appeal that reversed a fee award after court failed to apply CAFA);
 11 *In re Syngenta*, 2:14-MD-02591, Dkt. 4318 at 8-9; 4278 at 3, 6-7 (D. Kan. Jan. 6, 2020) (securing a \$3
 12 million monetary benefit for a settlement class of corn farmers and supplying nonmonetary benefits
 13 to the claims process); *Chambers v. Whirlpool Corp.*, 980 F.3d 645 (9th Cir. 2020) (prevailing on
 14 challenge to the district court's refusal to apply CAFA to fees); *Salinas v. World Houseware Producing*
 15 *Co.*, 34 N.Y.3d 925, 926 (Sept. 12, 2019) (New York Court of Appeals reversing in favor of client in
 16 products liability action); *Broussard v. Omni Hotels Corp. et al.*, 2019 WL 4309574 (Tex. App.—Corpus
 17 Christi Sept. 12, 2019, no pet.) (court of appeals reversing in favor of client in personal injury
 18 action); see also Dorothy Atkins, *Settling On Zoom: The Rise of Pro Se MDL Objectors*, LAW360
 19 (Dec. 22, 2020)¹ (“Robert Clore of Bandas Law Firm PC” is “a seasoned plaintiffs attorney who has
 20 successfully represented clients objecting to a number of big-ticket MDL settlements before trial
 21 courts and on appeal”).²

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 25 ¹ Accessible at <https://www.law360.com/articles/1337218> (last visited Feb. 26, 2021).

26 ² See also *City of San Antonio v. Peralta*, 476 S.W.3d 653, 661 (Tex. App.—San Antonio 2015, no pet.)
 27 (affirmance in favor of client); *Schaffer v. Nationwide Mut. Ins. Co.*, No. 13-11-00503-CV, 2013 WL
 28 2146833, at *1 (Tex. App. May 16, 2013) (reversal in favor of client); *Centocor, Inc. v. Hamilton*, 372
 S.W.3d 140, 142–43 (Tex. 2012) (reversal in favor of client in the Texas Supreme Court); *Guerrero v.*

1 6. Jason Pepe recently joined the Bandas Law Firm and has 23 years of experience in civil
2 litigation. He is a member in good standing of the State Bars of Kansas, Missouri, and Texas. He has
3 been admitted to practice in scores of state and federal courts across the Nation. He has successfully
4 handled multiple appeals in both state and federal appellate courts. He graduated third in his class at
5 the University of Kansas and wrote for and served as an Articles Editor for the Kansas Law Review.
6 He began his career, and ultimately became partner at an AMLAW 100 law firm. Before becoming a
7 lawyer, he was commissioned and served as an officer in the United States Army.

8 7. Erwin's counsel litigated the objections and appeals efficiently with 413.1 hours of
9 attorney time making up \$301,545 lodestar. That lodestar was accumulated between July 2021 and
10 August 2022 and covers Mr. Erwin's appeal of the Court's July 2, 2021 Order awarding Hagens
11 Berman \$31,026,000 in fees. It excludes any time spent on this fee motion as well as all time spent in
12 connection with Erwin's petition for rehearing in the Ninth Circuit. I view Erwin's counsels' total
13 lodestar as a reasonable expenditure of time for researching and drafting a comeback motion in the
14 Ninth Circuit to secure the same panel, conducting legal research and preparing a 53-page opening
15 brief and a 36-page reply brief in the Ninth Circuit, preparing for, traveling to, and attending one
16 oral argument in Seattle, Washington, analyzing the Ninth Circuit's opinion, and analyzing the
17 Secondary Distribution schedule and filing a notice to ensure reduced fees inure to the benefit of the
18 class.
19

20 8. The nature of the Erwin's appeal required, under Ninth Circuit law, that we be familiar
21 with the entire timeline of the case, including the bids submitted to Judge Walker at the outset of
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23

24 *Bexar Cty. Civil Serv. Comm'n*, No. 04-12-00523-CV, 2012 WL 6728260, at *1 (Tex. App. Dec. 28,
25 2012) (reversal in favor of client in a case I argued before the Texas Fourth Court of Appeals); *In re*
26 *Columbia Valley Healthcare Sys., L.P.*, 320 S.W.3d 819, 822 (Tex. 2010) (client's petition for writ of
27 mandamus granted in the Texas Supreme Court); *Butters v Noyola*, No. 13-07-00713-CV, 2008 WL
28 3984168, at *1 (Tex. App.—Corpus Christi-Edinburg, Aug. 29, 2008, no pet.) (reversal in favor of
client); *Military Highway Water Supply Corp. v. Morin*, 156 S.W.3d 569, 570 (Tex. 2005) (reversal in
favor of client).

litigation, and to review and understand filings, orders, and transcripts in complex, global antitrust class action litigation with over 3,000 docket entries, many years before Erwin first objected in 2016. Erwin's appeal involved more than 130 pages of briefing and in excess of 1,000 pages of excerpts and supplemental excerpts of record on appeal. *See In re Optical Disk*, Nos. 21-16291 (9th Cir.).

9. The risk of nonpayment was high. While Mr. Clore has an outstanding record in fighting excessive fee awards and settlements, there was no guarantee that the Ninth Circuit would agree that Hagens Berman submitted, and Judge Walker accepted, the bid at \$22.2 million based on marginal rates and then vacate the award for reconsideration with that amount establishing the starting point for reasonable fees. Even with success, there was the possibility that any pecuniary benefit for the class would be modest, as opposed to beneficial precedent that is gained for future class members involved in settlements.

10. Erwin's counsel are requesting \$867,000 in attorneys' fees as 20% of the \$4,380,000 benefit³ bestowed by Erwin's objections and appeals. This fee is reasonable considering the substantial benefit conveyed to the class, and that it is below the 25% benchmark. *In re Easysaver Rewards Litig.*, No. 09-CV-02094-BAS-WVG, 2021 WL 230013, at *3–4 (S.D. Cal. Jan. 22, 2021) (awarding objector's counsel \$805,000 as 25% benchmark fee); *Arnett v. Bank of Am., N.A.*, No. 3:11-cv-1372-SI, 2014 WL 5419125, at *3 (D. Or. Oct. 22, 2014) (awarding objectors' counsel 25% of benefit). It is also reasonable in terms of the risk we incur, since we often do not recover fees for appeals, and appellants succeed in the Ninth Circuit, on average, less than one time in ten.⁴

11. Collectively, Mr. Erwin's attorneys have logged 421.3 hours of attorney time making up \$301,545 lodestar between July 2021 and August 2022 in furtherance of the appeal. This results in a 2.87 lodestar multiplier for the requested \$867,000 fee, which is reasonable in the Ninth Circuit

³ The request may be lower than 20% depending on the interest returned to the class.

⁴ United States Courts for the Ninth Circuit, 2020 Annual Report, <https://cdn.ca9.uscourts.gov/datastore/judicial-council/publications/AnnualReport2020.pdf> at 57 (Ninth Circuit overall reversal rate of 9.9% for fiscal year 2020).

1 when used as a crosscheck of a percentage-based fee. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043,
 2 1051 & n.6 (9th Cir. 2002) (finding 1.0-4.0 to be generally the “range of multipliers applied in
 3 common fund cases”). That time excludes all work associated with Mr. Erwin’s motion for
 4 attorneys’ fees and incentive award. It also excludes all time associated with Mr. Erwin’s petition for
 5 rehearing in the Ninth Circuit.

6 12. I billed 330.3 hours in this case. Mr. Pepe billed 82.8. We kept contemporaneous record
 7 of our time manually, which was then placed into an Excel Spreadsheet, which is attached hereto as
 8 Exhibit A. As a practitioner more than 20 years out of law school, I seek a \$750/hour billing rate for
 9 my time. This is the same rate which this Court previously found reasonable and is well below the
 10 rates of the Adjusted Laffey Matrix for attorneys out of law school for more than twenty years. *See*
 11 <http://www.laffeymatrix.com/see.html> (\$914/hour for attorneys out of law school for more than
 12 twenty years); *In re Lithium Ion Batteries Antitrust Litig.*, No. 13MD02420YGRDMR, 2020 WL
 13 7261313, at *2 (N.D. Cal. Dec. 10, 2020) (noting that Adjusted Laffey Matrix rates are comparable
 14 to, if not less than, the San Francisco Bay Area market rates”). Mr. Pepe seeks a \$650/hour billing
 15 rate for his time, which is even further below the Laffey Matrix rate considering he is more than
 16 twenty years removed from law school. These rates are also reasonable relative to the Court’s
 17 finding of prevailing market rates and on the low end of rates for Hagens Berman’s experienced
 18 partners. Dkt. 2889 at 15 (noting “the range of \$200 to \$1,080 charged by partners in California[.]”
 19 that “Steve Berman bills at an hourly rate of \$975[.]” “[o]ther partners at Hagens Berman have
 20 hourly rates ranging from \$550 to \$950” and “[a]ssociates at Hagens Berman have hourly rates of
 21 \$300 to \$825”). They are also well below hourly rates found reasonable for objector’s counsel in this
 22 District who provided more modest and less quantifiable benefits. *Lithium*, 2020 WL 7261313, at *2
 23 (finding reasonable an hourly rate of \$899 for an objector’s attorney 20 years out of law school and
 24 \$747 for attorneys 11-19 years out of law school).
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13. In general, Mr. Pepe's time was spent reviewing the extensive record in this case, conducting legal research and making thorough edits to Erwin's reply brief in the Ninth Circuit, traveling to and from Seattle, Washington from St. Louis to assist with oral argument, assisting me in preparation for oral argument in Seattle, Washington, including multiple moot court sessions, and appearing with Mr. Clore for oral argument. I devoted my time to reviewing the extensive docket, conducting legal research in connection with the appeal, identifying the relevant records for inclusion in the excerpts of record, outlining and drafting Erwin's 53-page opening brief and 36-page reply brief, analyzing class counsels' 52-page answering brief, researching and preparing the motion to return the appeal to the prior panel, preparing for, traveling to and from, and participating in oral argument in Seattle, Washington.

14. The chart below also reflects the level of experience, billable rates, and the hours for Mr. Pepe and me in this case.

Attorney	Years Exp.	Hourly Rate	Hours	Total
Robert W. Clore, Partner, Bandas Law Firm	22	\$750	330.3	\$247,725
Jason Pepe, Senior Appellate Counsel, Bandas Law Firm	23	\$650	82.8	\$53,820
TOTAL			413.1	\$301,545

15. Our commitment of time on this case was both reasonable and necessary in furtherance of Erwin's objections which led to the additional \$4.38 million benefit bestowed on the class. Further, since the vast majority of work on this fee motion took place in the Ninth Circuit, and Mr. Pepe and I alone were responsible for that work,⁵ we were able to avoid any duplicative efforts, and the relatively small number of hours reflect this efficiency. I reviewed Exhibit A attached to Steve Berman's declaration at Dkt. 2942-2. Although the exhibit does not necessarily break down lodestar by these categories, according to my calculations, Hagens Berman spent at least 1,133.8 hours on

⁵ Local counsel Timothy Hanigan oversaw all work in the district court but does not submit any lodestar in connection with this motion.

1 motions for attorney's fees and expenses, Erwin's three appeals, and oral arguments in the Ninth
 2 Circuit. Dkt. 2942-2 at 376-78, 381, 385, 420, 434, 440-47, 463, 469-72, 478, 481-82, 484-95. That
 3 amount appears to be considerably understated, however, because Hagens Berman appears not to
 4 have documented most of its time in preparing the first fee motion filed on October 5, 2016, with
 5 only 6.5 hours recorded for the 22-page motion and none for the supporting declarations. Dkt.
 6 2942-2 at 376-78.

7 16. Erwin's counsel worked far more efficiently than did Hagens Berman. Erwin's
 8 counsel billed 687.6 hours in objecting to Hagens Berman's fee motions and prosecuting Erwin's
 9 first appeals. Hagens Berman billed at least 1,133.8 hours for the same work. In his most recent
 10 appeal and on remand, Erwin's counsel billed an additional 413.1 hours. Hagens Berman has not
 11 disclosed their billing for the most recent appeal. However, even Erwin's aggregate 1,100.7 hours fall
 12 below Hagens Berman's 1,133.8 hours that do not include the most recent appeal. I am confident
 13 that our challenge to Hagens Berman's fees in this Court and on appeal was decidedly more efficient
 14 than Hagens Berman's efforts in defending their requests before this Court and the awards before
 15 the Ninth Circuit.
 16

17 17. Erwin faced a substantial risk of non-payment. *Rodriguez v. W. Publishing Corp.*, 602 Fed.
 18 Appx. 385 (9th Cir. 2015) (reversing district court's unexplained conclusion that class action
 19 objection is a "matter which [has] little risk"). There was no guarantee that the Ninth Circuit would
 20 agree that Hagens Berman submitted, and Judge Walker accepted, the bid at \$22.2 million based on
 21 marginal rates and then vacate the award for reconsideration with that amount establishing the
 22 starting point for reasonable fees. Of course, the risk is high for any appeal; the overall reversal rate
 23 in the Ninth Circuit is 10%.⁶ There was also a risk that the Ninth Circuit would be distracted from
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26 ⁶ United States Courts for the Ninth Circuit, 2020 Annual Report,
 27 <https://cdn.ca9.uscourts.gov/datastore/judicial-council/publications/AnnualReport2020.pdf> at 57
 28 (Ninth Circuit overall reversal rate of 9.9% for fiscal year 2020).

1 the merits by the personal attacks lodged by Hagens Berman on counsel, Mr. Erwin, and his wife.
2 See Hagens Berman's Appellees' Brief, No. 17-15065, at 2, 15-16 (July 20, 2017). Even with success,
3 there was the possibility that any pecuniary benefit for the class would be modest, as opposed to
4 beneficial precedent that is gained for future class members involved in settlements. It was also
5 uncertain that this Court would award an amount below Hagens Berman's renewed request on
6 remand or otherwise adopt Erwin's arguments.

7 18. Erwin does not seek separate reimbursement for any expenses that he might be entitled
8 to for proceedings in this Court or the Ninth Circuit, including for expenses, printing, and legal
9 research costs.

10 19. Pursuant to Local Rule 54-5, I emailed and spoke with Kevin Green of Hagens Berman
11 by phone between August 8–10, 2022 for the purpose of resolving any disputes with the motion. I
12 advised him of Erwin's intent to move for \$867,000 in attorneys' fees as 20% of the \$4.38 million
13 benefit, plus a \$5,500 incentive award. We were unable to resolve any disputed issues, and Mr.
14 Green advised that they intend to oppose the motion.
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18 Dated this the 10th of August 2022.

19 I declare under penalty of perjury under the laws of the United States of America
20 that the foregoing is true and correct.

21 /s/ Robert W. Clore
22 Robert W. Clore
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Exhibit A

Case 3:10-md-02143-RS Document 3101-2 Filed 08/10/22 Page 11 of 13
Lodestar of Erwin's counsel (July 2021 – August 2022)*

Date	Case Name	Timekeeper	Time	Work Description	Hourly Rate	Lodestar
8/15/2021	ODD	RC	3.5	Legal research -Comeback case 9th Circ. General order; draft Motion to assign appeal to prior panel.	\$ 750.00	\$ 2,625.00
8/16/2021	ODD	RC	5.7	Draft motion to assign appeal to prior panel.	\$ 750.00	\$ 4,275.00
8/17/2021	ODD	RC	0.3	Reviewed class counsel's response to motion to assign appeal.	\$ 750.00	\$ 225.00
8/23/2021	ODD	RC	0.8	Filed Motion for Extension.	\$ 750.00	\$ 600.00
8/23/2021	ODD	RC	0.2	Filed transcript order form.	\$ 750.00	\$ 150.00
8/24/2021	ODD	RC	0.3	Filed designation form.	\$ 750.00	\$ 225.00
8/24/2021	ODD	RC	0.4	Finalized 9th circuit mediation letter.	\$ 750.00	\$ 300.00
9/14/2021	ODD	RC	0.6	Med. asses conference & prep.	\$ 750.00	\$ 450.00
9/18/2021	ODD	RC	7.2	Legal research/draft opening brief.	\$ 750.00	\$ 5,400.00
9/19/2021	ODD	RC	5.3	Legal research/draft opening brief.	\$ 750.00	\$ 3,975.00
9/21/2021	ODD	RC	2.8	Legal research/draft opening brief.	\$ 750.00	\$ 2,100.00
10/6/2021	ODD	RC	0.4	Analyzed filing of co-objector.	\$ 750.00	\$ 300.00
10/30/2021	ODD	RC	3.7	Legal research for opening brief.	\$ 750.00	\$ 2,775.00
11/1/2021	ODD	RC	6.8	Analyzed documents to include in excerpts of record; analyzed records in preparation for opening brief.	\$ 750.00	\$ 5,100.00
11/2/2021	ODD	RC	5.6	Legal research/draft opening brief.	\$ 750.00	\$ 4,200.00
11/5/2021	ODD	RC	1.5	Legal research/draft opening brief.	\$ 750.00	\$ 1,125.00
11/5/2021	ODD	RC	2.7	Legal research/draft opening brief.	\$ 750.00	\$ 2,025.00
11/9/2021	ODD	RC	3.8	Legal research/draft opening brief.	\$ 750.00	\$ 2,850.00
11/11/2021	ODD	RC	6.8	Legal research/draft opening brief.	\$ 750.00	\$ 5,100.00
11/15/2021	ODD	RC	6.7	Drafted/edited opening brief.	\$ 750.00	\$ 5,025.00
11/17/2021	ODD	RC	6.9	Drafted opening brief.	\$ 750.00	\$ 5,175.00
11/22/2021	ODD	RC	5.6	Drafted/edited opening brief.	\$ 750.00	\$ 4,200.00
11/23/2021	ODD	RC	3.8	Edited opening brief.	\$ 750.00	\$ 2,850.00
12/1/2021	ODD	RC	1.8	Drafted/edited opening brief.	\$ 750.00	\$ 1,350.00
12/2/2021	ODD	RC	2.5	Legal research/edited opening brief.	\$ 750.00	\$ 1,875.00
12/2/2021	ODD	RC	4.9	Drafted/edited opening brief.	\$ 750.00	\$ 3,675.00
12/3/2021	ODD	RC	2.2	Edited opening brief.	\$ 750.00	\$ 1,650.00
12/3/2021	ODD	RC	5.1	Drafted/edited opening brief.	\$ 750.00	\$ 3,825.00
12/6/2021	ODD	RC	4.9	Drafted/edited opening brief.	\$ 750.00	\$ 3,675.00
12/6/2021	ODD	RC	3.6	Drafted/edited opening brief.	\$ 750.00	\$ 2,700.00
12/7/2021	ODD	RC	3.2	Drafted/edited opening brief.	\$ 750.00	\$ 2,400.00
12/7/2021	ODD	RC	2.6	Edited opening brief.	\$ 750.00	\$ 1,950.00
12/7/2021	ODD	RC	3.1	Drafted/edited opening brief.	\$ 750.00	\$ 2,325.00
12/8/2021	ODD	RC	3.5	Drafted/edited opening brief.	\$ 750.00	\$ 2,625.00
12/8/2021	ODD	RC	2.6	Edited opening brief.	\$ 750.00	\$ 1,950.00
12/8/2021	ODD	RC	6.2	Edited opening brief.	\$ 750.00	\$ 4,650.00
12/9/2021	ODD	RC	2.4	Added record citations to opening brief	\$ 750.00	\$ 1,800.00
12/9/2021	ODD	RC	3.2	Edited opening brief.	\$ 750.00	\$ 2,400.00
12/13/2021	ODD	RC	6.8	Edited opening brief.	\$ 750.00	\$ 5,100.00
12/14/2021	ODD	RC	7.3	Edited opening brief.	\$ 750.00	\$ 5,475.00
12/15/2021	ODD	RC	3.1	Edited and finalized opening brief	\$ 750.00	\$ 2,325.00
2/17/2022	ODD	RC	2.5	Reviewed opening brief and answering brief in prepare for drafting reply.	\$ 750.00	\$ 1,875.00

*Excludes time for Erwin's motion to enforce/return class funds and supporting papers, motions for objector attorneys' fees, and Erwin's petition for rehearing in the Ninth Circuit.

Lodestar of Erwin's counsel (July 2021 – August 2022)

Date	Case Name	Timekeeper	Time	Work Description	Hourly Rate	Lodestar
2/19/2022	ODD	JP	2.5	Reviewed opening brief and answering brief in preparation for reply.	\$ 650.00	\$ 1,625.00
2/20/2022	ODD	RC	3.5	Analyzed Hagens Berman's brief and made extensive notes.	\$ 750.00	\$ 2,625.00
2/20/2022	ODD	RC	3.8	Outlined arguments for reply brief.	\$ 750.00	\$ 2,850.00
2/21/2022	ODD	RC	3.1	Edited outline for reply brief.	\$ 750.00	\$ 2,325.00
2/21/2022	ODD	RC	2.8	Legal research for reply brief.	\$ 750.00	\$ 2,100.00
2/21/2022	ODD	RC	2.5	Drafted reply brief.	\$ 750.00	\$ 1,875.00
2/22/2022	ODD	RC	3.8	Legal research for reply brief.	\$ 750.00	\$ 2,850.00
2/22/2022	ODD	RC	5.5	Drafted reply brief.	\$ 750.00	\$ 4,125.00
2/23/2022	ODD	RC	3.4	Drafted/edited reply brief.	\$ 750.00	\$ 2,550.00
2/23/2022	ODD	RC	1.5	Legal research for reply brief.	\$ 750.00	\$ 1,125.00
2/25/2022	ODD	RC	5.4	Drafted/edited reply brief.	\$ 750.00	\$ 4,050.00
2/27/2022	ODD	RC	6.3	Drafted/edited reply brief.	\$ 750.00	\$ 4,725.00
3/1/2022	ODD	RC	7.8	Drafted/edited reply brief.	\$ 750.00	\$ 5,850.00
3/2/2022	ODD	RC	8.6	Drafted/edited reply brief.	\$ 750.00	\$ 6,450.00
3/2/2022	ODD	JP	3.0	Legal research/edited reply brief.	\$ 650.00	\$ 1,950.00
3/3/2022	ODD	RC	9.5	Drafted/edited reply brief.	\$ 750.00	\$ 7,125.00
3/3/2022	ODD	JP	9.5	Legal research/edited reply brief.	\$ 650.00	\$ 6,175.00
3/3/2022	ODD	JP	5.0	Legal research/edited reply brief.	\$ 650.00	\$ 3,250.00
3/4/2022	ODD	RC	6.5	Drafted reply brief.	\$ 750.00	\$ 4,875.00
3/4/2022	ODD	RC	3.6	Edited reply brief.	\$ 750.00	\$ 2,700.00
3/4/2022	ODD	JP	8.8	Legal research/edited reply brief.	\$ 650.00	\$ 5,720.00
3/4/2022	ODD	JP	0.4	Drafted email to R. Clore re reply brief.	\$ 650.00	\$ 260.00
3/4/2022	ODD	JP	0.3	Conference with R. Clore re reply brief.	\$ 650.00	\$ 195.00
3/5/2022	ODD	RC	5.5	Edited reply brief.	\$ 750.00	\$ 4,125.00
3/5/2022	ODD	RC	3.6	Drafted/edited reply brief.	\$ 750.00	\$ 2,700.00
3/5/2022	ODD	JP	7.0	Edited/cite checked reply brief.	\$ 650.00	\$ 4,550.00
3/6/2022	ODD	RC	8.9	Edited reply brief.	\$ 750.00	\$ 6,675.00
3/7/2022	ODD	RC	8.2	Edited reply brief.	\$ 750.00	\$ 6,150.00
3/7/2022	ODD	JP	2.0	Edited reply brief.	\$ 650.00	\$ 1,300.00
3/8/2022	ODD	RC	1.8	Finalized and filed Reply brief.	\$ 750.00	\$ 1,350.00
3/8/2022	ODD	JP	5.5	Edited reply brief.	\$ 650.00	\$ 3,575.00
3/9/2022	ODD	RC	0.6	Analyzed proposed distribution plan.	\$ 750.00	\$ 450.00
3/9/2022	ODD	RC	2.3	Drafted, edited and filed Erwin's response to proposed distribution plan.	\$ 750.00	\$ 1,725.00
3/22/2022	ODD	RC	0.3	Conference with Jason Pepe re-oral argument.	\$ 750.00	\$ 225.00
3/22/2022	ODD	RC	0.6	Filed acknowledgement of hearing for oral argument and completed and submitted vaccination forms.	\$ 750.00	\$ 450.00
3/28/2022	ODD	RC	0.4	Call with COA regarding mandatory mediation assessment.	\$ 750.00	\$ 300.00
4/7/2022	ODD	RC	2.3	Oral argument preparation.	\$ 750.00	\$ 1,725.00
4/10/2022	ODD	RC	0.5	Drafted Motion to Supplement Record on Appeal.	\$ 750.00	\$ 375.00
4/11/2022	ODD	RC	2.5	Drafted/edited Motion to Supplement record on appeal.	\$ 750.00	\$ 1,875.00
4/11/2022	ODD	RC	3.1	Oral argument preparation.	\$ 750.00	\$ 2,325.00
4/13/2022	ODD	RC	5.5	Mock court/preparation for argument.	\$ 750.00	\$ 4,125.00
4/14/2022	ODD	RC	8.4	Travel to Seattle for Argument.	\$ 750.00	\$ 6,300.00
4/14/2022	ODD	JP	1.5	Legal research in preparation for oral argument.	\$ 650.00	\$ 975.00

Case 3:10-md-02143-RS Document 3101-2 Filed 08/10/22 Page 13 of 13
Lodestar of Erwin's counsel (July 2021 – August 2022)

Date	Case Name	Timekeeper	Time	Work Description	Hourly Rate	Lodestar
4/16/2022	ODD	RC	8.8	Oral argument preparation.	\$ 750.00	\$ 6,600.00
4/17/2022	ODD	RC	7.4	Oral argument preparation.	\$ 750.00	\$ 5,550.00
4/17/2022	ODD	JP	11.5	Travel to Seattle for oral argument; oral argument preparation.	\$ 650.00	\$ 7,475.00
4/18/2022	ODD	RC	8.5	Edited outline; Moot arguments with Jason Pepe	\$ 750.00	\$ 6,375.00
4/18/2022	ODD	JP	8.0	Oral argument preparation; moot court.	\$ 650.00	\$ 5,200.00
4/19/2022	ODD	RC	4.3	Additional moot court and argument preparation.	\$ 750.00	\$ 3,225.00
4/19/2022	ODD	RC	3.0	Travel to & from courthouse; argument before 9th Circuit.	\$ 750.00	\$ 2,250.00
4/19/2022	ODD	RC	0.5	Post-Argument Conference with Jason Pepe & Chris Bandas.	\$ 750.00	\$ 375.00
4/19/2022	ODD	JP	4.0	Additional moot court and oral argument preparation.	\$ 650.00	\$ 2,600.00
4/19/2022	ODD	JP	0.5	Uber ride hotel to courthouse for purposes of appearing for oral argument.	\$ 650.00	\$ 325.00
4/19/2022	ODD	JP	2.0	Appear for oral argument before 11th Cir. Panel.	\$ 650.00	\$ 1,300.00
4/19/2022	ODD	JP	0.5	Uber ride from courthouse to hotel following oral argument.	\$ 650.00	\$ 325.00
4/19/2022	ODD	JP	0.5	Post-argument conference with R. Clore and C. Bandas.	\$ 650.00	\$ 325.00
4/20/2022	ODD	RC	7.8	Travel to Corpus Christi.	\$ 750.00	\$ 5,850.00
4/20/2022	ODD	JP	10.0	Return travel location of oral argument Seattle, WA to office, St. Louis, MO.	\$ 650.00	\$ 6,500.00
4/21/2022	ODD	RC	0.3	Correspondence with client Conner Erwin re argument.	\$ 750.00	\$ 225.00
6/6/2022	ODD	RC	0.8	Analyzed Ninth Circuit opinion.	\$ 750.00	\$ 600.00
6/6/2022	ODD	JP	0.3	Review Ninth Circuit opinion.	\$ 650.00	\$ 195.00
6/7/2022	ODD	RC	0.3	Discussed Ninth Circuit opinion with client.	\$ 750.00	\$ 225.00
7/29/2022	ODD	RC	3.6	Analyzed distribution schedule, emailed oc, and filed notice.	\$ 750.00	\$ 2,700.00
413.1						\$ 301,545.00

RC	330.3 RC = Robert Clore	\$ 247,725.00
JP	82.8 JP = Jason Pepe	\$ 53,820.00